

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>DEBRA C. EVANS</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 179,663
<b>BOEING COMPANY</b>	)	
Respondent	)	
AND	)	
	)	
<b>AETNA CASUALTY &amp; SURETY COMPANY</b>	)	
Insurance Carrier	)	
AND	)	
	)	
<b>KANSAS WORKERS COMPENSATION FUND</b>	)	

**ORDER**

Claimant requested Appeals Board review of Administrative Law Judge Jon L. Frobish's May 6, 1997, preliminary hearing Order.

**ISSUES**

The original Award was entered in this matter on September 19, 1995. That award was timely appealed to the Appeals Board. The Appeals Board, in an Order dated January 10, 1997, remanded the Award for further proceedings to the Administrative Law Judge. The Administrative Law Judge entered another Award dated April 28, 1997, which adopted the findings and conclusions in the original Award. During the time the Award was on remand to the Administrative Law Judge, the claimant filed an Application for Preliminary Hearing on February 19, 1997, requesting post-award medical treatment from Philip R. Mills, M.D.

The Administrative Law Judge, in the preliminary hearing Order dated May 6, 1997, denied claimant's request for medical treatment. The parties consolidated both the April 28, 1997, Award and the May 6, 1997, preliminary hearing Order for oral argument before the Appeals Board on October 10, 1997. The claimant contends the Administrative

Law Judge erred in not ordering her request for additional medical treatment with Dr. Philip Mills.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the preliminary hearing record, considering the briefs, and hearing the arguments of the parties, the Appeals Board finds as follows:

The Appeals Board finds, at this juncture of the proceeding, it lacks jurisdiction to review the Administrative Law Judge's preliminary hearing Order.

The Appeals Board has on numerous other occasions had the opportunity to address whether it has jurisdiction to review a finding by the Administrative Law Judge in a preliminary hearing Order that grants or denies a request for medical treatment. The preliminary hearing statute, K.S.A. 1997 Supp. 44-534a(a)(2), specifically authorizes the Administrative Law Judge to grant or deny temporary total disability compensation and medical compensation pending a full hearing on the matter. The Appeals Board, therefore, finds the Administrative Law Judge did not exceed his jurisdiction when he denied claimant's request for medical treatment.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the claimant's appeal is dismissed and Administrative Law Judge Jon L. Frobish's May 6, 1997, preliminary hearing Order remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of May 1998.

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BOARD MEMBER

c: Roger A. Riedmiller, Wichita, KS  
Frederick L. Haag, Wichita, KS  
John C. Nodgaard, Wichita, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director